

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

RRev..No. 275 of 2007()

RCA.57/2006 of ADDL. DISTRICT COURT-II, KOZHIKODE
RCP.13/2005 of MUNSIFF'S COURT, KOYILANDY
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PETITIONERS/APPELLANTS/RESPONDENTS

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1. NEROTH SREEDHARAN NAIR,
S/O KANARAN NAIR, AGED 58 YEARS,
PRESIDENT, JANTHADHAL, NADUVANNUR
PANCHAYATH COMMITTEE.
 2. PUTHUKUDI UNNI NAIR, AGED 53 YEARS,
S/O KELAPPAN NAIR, NADUVANNUR PANCHAYATH
COMMITTEE, NADUVANNUR AMSOM AND DESOM,
KOYILANDY TALUK.

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENTS: RESPONDENTS/SUPPL. PETITIONERS 2 TO 4

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1. PATTOOL SAFIYA UMMA, AGED 48 YEARS,
W/O AMMED, NADUVANNUR AMSOM AND DESOM,
KOYILANDY TALUK.
 2. PATTOL SHARAFUDHEEN,
AGED 28 YEARS, S/O AMMED,
NADUVANNUR AMSOM AND DESOM,
KOYILANDY TALUK.
 3. PATTOOL SHAHEER, AGED 22 YEARS,
S/O AMMED, NADUVANNUR AMSOM AND DESOM,
KOYILANDY TALUK.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION
ON 18/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.BALAKRISHNAN NAIR &
HARUN-UL-RASHID, JJ.

R.C.R. NO. 275 OF 2007

Dated 18th August, 2007.

ORDER

Balakrishnan Nair, J.

Janathadal Naduvannur Panchayat Committee is the tenant. The President and Secretary of the tenant are the revision petitioners. They were representing the tenant in the courts below. The 1st respondent is the wife and respondents 2 and 3 are the sons of the original landlord, who died during the pendency of the proceedings before the Rent Controller.

2. The landlord moved for eviction of the tenanted premises under Sections 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act (hereinafter referred to as “the Act”). He rented out the premises to the Janathadal Panchayat Committee orally on 1.7.1980. The rent was in arrears from January, 1995 onwards. The room was required for the use of the 3rd respondent herein, who is the son of the original landlord. So, the application was filed under Sections 11(2)(b) and 11(3) of the Act. It was contended on behalf of the tenant that there is no arrears of rent. The

room was taken on lease on a monthly rent of Rs.20/-, which was enhanced in 1990 to Rs.30/-. The rent up to October, 2004 had been paid. The landlord demanded enhancement of the rent at the rate of Rs.1000/- per month. Since the said demand was not acceded to, the Rent Control Petition was filed to evict the tenant, it is submitted.

3. The respondents herein got themselves impleaded as supplemental petitioners in the R.C.P., on the death of the original landlord. From the side of the landlords, the 3rd respondent herein was examined as PW1 and Exts.A1(a) to A1(c) were marked. From the side of the tenant, RW1 was examined. The case of the landlords was that the monthly rent was Rs.100/- and it was in arrears from 1995 onwards. The tenant disputed the rate of rent as well as the claim regarding arrears. After considering the evidence on record, the Rent Controller found that the rent is Rs.100/- and it is in arrears since 1995. The said decision was affirmed by the Appellate Authority also. The revision petitioners challenged the said finding. But, we notice that the authorities below drew adverse inference against the tenant, for the reason that it failed to produce its accounts. The Janathdal being a registered political party with the Election Commission, is bound to maintain proper accounts. Even otherwise, it being a party functioning on funds donated by the public, has a moral duty to maintain proper accounts,

it was found. The accounts maintained by the party will show the rent paid every month and it will disclose the rate of rent also. Since the best evidence available with the tenant was not produced, adverse inference was drawn and the case of the landlords was accepted. We find that the said decision is legal and proper. The same cannot be described as perverse, warranting interference by this Court under Section 20 the Act. So, we affirm the finding that the tenant is liable to be evicted under Section 11(2)(b) subject, of course, to its right under Section 11(2)(c) of the Act.

4. The revision petitioners also challenge the finding of the Appellate Authority regarding the bona fide need of the 3rd respondent herein. The said respondent has studied only up to Pre-degree. He requires the room for starting a business in readymade goods. He has the resources to start the business, it was claimed. The tenant attempted to resist the claim by vaguely contending that the 3rd respondent herein is employed. It was also attempted to show that the building is located at a far off place from the town concerned and therefore, it is no a suitable place for the business. But, the Appellate Authority rightly held that it is for the landlord to decide whether the building is suitable for his business or not. An attempt was made to show that the landlords are in possession of another building and therefore, not liable to be evicted under the first proviso to Section 11(3) of

the Act. No evidence was produced at the original stage on this aspect. But, the tenant at the appellate stage produced a copy of the register maintained by the Panchayat to show that the said building was vacant during 1997-98. The Appellate Authority found that the said document was available always and therefore, the conditions under Order 41 Rule 27 of C.P.C are not present for accepting the documents at the appellate stage. On merits also, it was held that the availability of the room at the relevant time has no bearing on the Rent Control Petition, which was filed in 2005. We feel that the said finding of the Appellate Authority is a reasonable finding on facts. Therefore, the attempt of the tenant that the case is covered by the first proviso to Section 11(3) of the Act was rightly rejected. The Appellate Authority also found that since the tenant is a political party, it cannot claim the benefit of the second proviso to Section 11(3). In the result, we find that there is no merit in the revision petition. Accordingly, it is dismissed.

5. The learned counsel for the revision petitioners prayed for some time to vacate the premises. Having regard to the facts of the case, the petitioners are granted six months' time, provided they file an affidavit within three weeks from today, before the Executing Court, unconditionally undertaking to vacate the premises within six months from today. They shall pay the arrears of rent and also the monthly rent till the room is

surrendered to the landlords. The arrears of rent found due shall be paid within two months from today.

K.BALAKRISHNAN NAIR, JUDGE.

HARUN-UL-RAAHID, JUDGE.

Nm/